

ISLAM AND HUMAN RIGHTS

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P R E F A C E

The issue of human rights is a burning topic in the contemporary world. These rights are discussed from a variety of angles and human rights violation anywhere in the world invite the attention of the media and efforts are made to check such violations. This trend is a welcome one.

I have been interested in this subject for quite sometime and have also written on it. Two books of mine, "Relations with non Muslims" and "Rights of Muslim Woman" are concerned with human rights. In another brief book, I have outlined the rights expected by Muslims living in an un-Islamic state. This book is published under the title "Muslims in an un-Islamic state." Two other booklets of mine; "Unity of Mankind" and "Children and Islam" also deal with human rights. My book on "Social service in Islam" was published sometime ago and has been recently reprinted. Most of these writings have been rendered into English and other languages.

Islam is the religion prescribed by Allah. I have tried to discover the Islamic approach to human rights and to describe its detailed teachings on this vital theme. The present booklet is a speech delivered on the subject of human rights; in a public gathering organized by Markaz Jamaat-e-Islami Hind. I have recently written a more detailed book "Islam the Champion of human rights" which would be published soon. May Allah accept these efforts and forgive the shortcomings in them.

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BACKGROUND

A popular conception about human rights is that awareness of these rights is a recent phenomenon. It is asserted that in the greater part of human history; human beings were deprived of their rights and were subjected to oppression and injustice. Even if feeble voices of protests were raised, they were suppressed by the powerful elements of society. The western world, it is asserted; first became conscious of human rights and they were clearly formulated in the west. Alfonso IX of France is credited with promulgating a law, which banned imprisonment without reasonable cause. This is considered to be a big step forward. Then Rousseau gave the concept of liberty of the individual in his famous writings. He asserted that man is free by nature and this freedom should be restored to him. These writings were considered radical and rendered into a number of languages including Urdu. France was influenced by this new awareness of human rights and then "The Declaration of Rights of Man" was pronounced. On December 10, 1948; the United Nations adopted "The Universal Declaration of Human Rights". This is regarded as a major breakthrough and it is asserted that the "Declaration" contains a clear formulation of human rights and makes a successful bid to save human beings from injustice and excesses. This "Declaration" focuses on individual freedom, justice and equality.

These basic characteristics of the "Declaration"; it is asserted, ensure the availability of human rights to all.

WEAKNESSES OF WESTERN APPROACH

Welcome as these developments are, the 'Declaration' suffers from a number of weaknesses:

- (i) There is no authority which may enforce it. If a country, particularly a powerful one, chooses to violate it, there is no viable procedure to check the violations. Today this gross violation of human rights by a global power is evident before all of us.
- (ii) Another lacuna is in the concept of "religious freedom". This freedom is acknowledged by the declaration but is not clearly defined. A very narrow concept of religious freedom consists of the freedom to worship in a mosque or a church or in any other place of worship. Some explanations of religious freedom may go beyond this and extend the "freedom to worship" to a few other aspects of social life. But in Islam, Muslims have been given instructions about all aspects of life. "No constitutions in any of today's states give this full freedom to Muslims to practice their religion.
- (iii) A third aspect of this declaration is the historical perspective peculiar to the west. Historically the church and the powerful elements in the west adopted an antagonistic attitude towards the basic rights of individuals.

This attitude was certainly not inspired by the revealed religion. However it produced a reaction

among the enlightened individuals against religion itself; a powerful movement for human rights emerged. This new movement ignored totally the role of the authentic religion and the constructive contribution in human history; of the messengers of Allah and their teachings. The revealed religion was a priori assumed by the new thinkers to be irrelevant in the discussion of human rights. This certainly was not an objective attitude. It had a clear bias against the important role played by religion in history.

A BALANCED VIEW OF HISTORY

It is a fact of history that excesses have often been committed by human beings on one another. The son of Adam himself killed his brother at the dawn of history. Islam recognizes this as a deplorable fact of human history. But at the same time, Islam informs us that the mission of messengers of Allah was to establish justice in the human society and to abolish all forms of oppression. Whenever they succeeded in their mission, the human society was blessed with justice and well being. Islam has ruled over the civilized world for a long period of history and the Islamic laws have been implemented during that period. These laws ensured justice and protected the human rights of the whole of humanity. However this role of Islam is either totally ignored by today's thinkers or its importance is sought to be minimized. It is said that Islam does not come up to the standards set up by the contemporary world. Islam's role to protect the rights of human beings is also disputed. It is alleged that acts of

terrorism are being committed in the name of Islam and innocent blood is being shed.

ROLE OF ISLAM

However the fact remains that Islam is indeed the champion of human rights. Its clear teachings bear testimony to this. If excesses are taking place or acts of terror being committed, they are certainly not sanctioned by Islam. Islam has inculcated a sense of duty among its followers to protect human rights of all human beings and it has done so in adverse circumstances. It should be recognized that the Quran and the Hadith do not use the legal terminology and the human rights in them are not presented in the codified form. Rather the detailed laws are derived from these sources. Similarly the Quran does not discuss all the aspects of a legal issue at one place; often a number of aspects are mentioned at a number of places in the Quran. A comprehensive study of the Quran about a particular question reveals to us a comprehensive formulation. The details available in the Hadith further supplement this and give us a complete picture. The Islamic scholars have done painstaking work on Islamic law and their legal insights are unparalleled. They have carried out detailed studies of each word and sentence of the sources of Islamic law and codified their conclusions. These efforts need to be appreciated.

ISLAMIC WORLD VIEW

To understand the Islamic teachings on human rights, one must realize that Islam has its own view about the universe and the place of man in it. This view is of

paramount importance. Similarly Islam has a number of principles and values and all its teachings derive from them and can never be in conflict with them. Hence if the details of a law are to be worked out or if a new law is to be codified, it should be ensured that it is within the parameters specified by the basic principles and the worldview of Islam.

To illustrate this requirement, consider the Quranic assertion that Allah is the Creator and the Master of the universe. This concept abolishes any claim to sanctity of the power enjoyed by oppressors and wrongdoers. This principle asserts that the oppressors' power is not legitimate; only Allah is the legitimate Master. If a person believes in Allah, he cannot claim to be master over others; even though he may be a powerful monarch, landlord or industrialist.

When Allah is the real Master, a man can only use the bounties given by Allah within the limits set by the Divine injunctions. He is not permitted to use resources at his command to commit excesses over others.

Similarly the Quran asserts that life and death are in the hands of God. A man is alive as long as Allah wills him to. Some very young children die; others die on achieving maturity, while some achieve old age. Only Allah decides the duration of a person's life. Hence a person should not arbitrarily try to deprive another person of his life.

ALLAH IS SOVEREIGN

The Quran asserts that only Allah has the right to rule over us. Therefore, no human being may enslave another. Similarly all powers temporal or religious must be subordinate to Allah's laws and should be exercised within the limits set by the Divine law. The Quran asserts that man is dignified. To deprive him of the basic rights is a violation of human dignity. The Quran thus has a number of basic principles. They are similar to "Preamble" or "Directive principles" of a constitution. They provide us the right spirit behind the concept of human rights. According to Islam, Allah is the lawgiver. Man should obey the Divine laws. However human beings may formulate the detailed laws to suit their circumstances; within the parameters set by the basic law. No one can however elevate himself to the position of an absolute monarch. The Divine law would apply equally to the ruler and the ruled. Islam not only provides the law; it also provides a driving force. The concept of hereafter warns the man of dire consequences, if the Divine commands are disobeyed. If a person really believes in the hereafter, he cannot consciously violate the Divine laws.

INDIVIDUAL'S RIGHTS

Human rights include an important category namely that of individual's rights. The first among them is the right to life. The Quran emphasizes the importance of this. According to it, every born child has the right to live. The Quran raised its voice against the violators of this right at the time of its revelation. It challenged those who killed children because of poverty, a false sense of shame or

false religiosity. It asserted that no one may deprive another of life. The Quran championed this right to life by repeatedly focusing on it. However all rights have exceptions and the Quran recognizes that none of the rights can be absolute. Human life has sanctity but in certain circumstances, its sanctity may be lost.

The Quran says:

“They (the believers) do not kill a human being whose life has been sanctified by Allah, except when justice so demands.”

When justice demands, a human being may be deprived of life. But otherwise, even the ruler of the state has no power to do so.

EQUALITY

The recent writings on human rights emphasize the equality of human beings. It is said that all human rights derive from the conception of human equality. Human beings are equal and no discrimination should be made among them on the basis of race, color, region or sex. Islam very powerfully presented this message of equality. The Quran asserts this equality and on the occasion of the last Hajj performed by him, the Prophet gave his famous speech which may be regarded as the “Islamic charter of human rights”. He said:

“No Arab has a superiority over a non-Arab and similarly no non-Arab has a superiority over an Arab. No red skinned person is superior to a black and no black is superior to red except in piety.”

The Arabs were the first to usher in the Islamic revolution. Therefore, they have been mentioned first. They were

rulers at that time and they have been told in clear terms that they are not superior to people of other races. However if a person is pious, he deserves greater respect. Instead of piety, if in a society, skin color or race or sex becomes the determinant of superiority, that attitude would be contrary to Islam. This announcement came at a time, when the world was not familiar with the idea of equality.

JUSTICE

Another basic right of human beings is the right to get justice. Islam has a clear stand on this. The Quran and the Hadith forcefully command that everyone should be treated justly. The establishment of justice is indeed one of the objectives of the mission entrusted to the messengers of Allah. The Quran says:

“We sent our messengers with clear teachings.

We revealed the Book to them and gave them the balance so that justice may be established among human beings.”

The “Balance” refers to the Divine laws which ensure justice to every one. Power may be used towards this end. The Quran says:

“We have provided “iron” which has strength, as well as utility (for human beings); so that Allah may know those who help Him and help His messengers. Verily Allah is powerful and supreme.”(Al-Hadid)

To establish justice and to use power towards that end is therefore a noble task entrusted to Allah's messengers. The followers of Islam should participate in this mission.

RULE OF LAW

Rule of law is a corollary of the principles of equality and justice. Every one should enjoy the freedom to perform his role in society, protected by law against injustices. Islam has very clearly laid down this principle; that all are equal before law. The famous illustration of this equality before law is the case of a woman of the tribe of Bani Makhzoom, who had committed theft. This case is described in Bukhari and in the other books on Hadith. A plea was made to the Prophet that since the thief is from a "respectable" family, she should be spared the punishment prescribed by law. The Prophet was very angry at this suggestion. He warned that a number of communities were destroyed in the past because they used to punish the weak, but spared the powerful who were guilty of similar crimes. He then made a pronouncement, which only a prophet can make. He said that even if Muhammad's daughter, Fatima, had committed theft, her hand would have been severed as the prescribed punishment. The law is thus for every one; man or woman; weak or mighty, ruler or ruled. This conception of the uniform rule of law is unparalleled in the legal systems of the world.

The principle that "Charges against an accused should be proved in open court and no punishment be given without such a trial" is also a contribution of Islam. The second caliph Omar said that:

"By Allah, no one will be imprisoned unless two reliable persons bear witness to his crime."

ROLE OF STATE

Islam charges the state with the responsibility to ensure that the law is not violated. The Prophet said:

“The ruler is the shepherd of his people”.

As the shepherd looks after the well being of his sheep; similarly the ruler should look after his people. He is not a monarch but a shepherd. The state should thus ensure that rights of the people are not violated.

BASIC NEEDS

Another right of human beings is the right to satisfy their basic needs. Islam has a clear stand on this and Islamic concept of basic needs is quite comprehensive. The Quran says:

“Indeed in the earth, we have provided (for human beings) means of livelihood”

Hence, every human being may benefit from these “means of livelihood”. At another place, the Quran says:

“Explore the corners of the earth and eat from the bounties (provided by Allah).”

Thus to create artificial difficulties and to prevent people from freely earning their livelihood, is against the Islamic principles. Islam also ensures that man may get clean and good food and may not be compelled to eat unclean things. It is by Allah's grace that human beings have been provided with pure and clean food and it is beneath human dignity to consume polluted food. Similarly clothing is a primary need of mankind. When Adam was deprived of his clothes, he prayed to Allah and started covering

himself with leaves of a tree. Islam ensures that clothings are provided to every one.

Similarly, Islam regards housing as a basic need. The Prophet said:

“We entrust some people with official responsibilities. If such a person is not married, he may marry (with financial help from the treasury). He may be provided clothes. He may have a house and (suitable) means of transportation. However, he may not demand anything beyond this.”

The Islamic scholars have argued that the state would look after the basic needs of the people, according to its capacity. In principle however, the state is charged with the responsibility of satisfying the basic needs of all its citizens. The Prophet said:

“If a person is dying and he is leaving some wealth behind him, it would go to his family. However if he leaves no wealth and his children are needy, I would provide for them.”

From this Hadith, the scholars have inferred that the state is responsible for the helpless and the needy children. The state is thus charged with the responsibility of providing for every needy person. At the same time, people are warned that they should not be greedy and should not make the pursuit of worldly pleasures their sole objective in life.

SOCIAL PARTICIPATION

Social rights are a very crucial component of human rights. A person must be allowed to take an active part in social affairs. He should not be made redundant or shackled in chains. Islam provides intellectual and practical freedom to people. It chastisizes those who do not exercise their faculties of reasoning and thinking. It compares them to dumb animals. Islam also gives freedom of action subject to the condition that it does not lead to social disruption or chaos. The messengers of God used to invite people towards oneness of God. They exhorted human beings to offer prayers to One God alone and then they said:

“Do not create disruption in the earth, after it has been purified.”

In other words, Allah has reformed the human society by means of Divine law. Do not disrupt the society again.

FREEDOM OF SPEECH

Freedom of expression is a basic right of human beings. According to Islam, this freedom should not be unduly curbed. However, one is not allowed to spread indecency or injure the sensitivities of other individuals. One may not make fun of others or malign them and may not conspire against the state. All legal systems regulate the freedom of expression in a similar manner. (However they may permit a number of indecencies; which should really not be permitted.)

FAMILY

To establish a family is a basic right of a person, since family is one of the basic human needs. Islamic teachings in regard to the institution of family are very clear. Islam regards family as a blessing from God. To have many children and grand children is not a hindrance but a blessing. Islam gives detailed instructions about the family system and has sought to maintain it on firm foundations.

RIGHT TO PRIVACY

Privacy is another human right. The Quran bestows the right to privacy and has instructed that the private life of an individual may not be interfered with. Even the state may not violate the right to privacy of an individual.

Islam also recognizes the human right that a person be permitted to criticize, advise and serve the state and the society. In the Islamic perspective, one who serves the society is a better individual. The prophet said that a physically stronger believer is better than a weak one. A strong and able-bodied person would be able to serve the society; a weak person will be unable to do so. The prophet on another occasion told people that a person whomingles with people and tolerate their misdeeds is better than the one who remains aloof from them. The Quran recognizes it as a basic right that an individual be given opportunities to work for reforming the society. The hypocrites were told by the Quran that their secret meetings were not good for them since they led to conspiracies. However if they were to discuss ways of reforming the society and of "enjoining the good and

forbidding the evil", it would be good for them. Allah would reward them for their sincere efforts.

DEFENSE

The right to defend oneself against violence is another basic right. This right is recognized in today's world. If a person is attacked and his life, his family, his dignity or his property are in danger; he may not sit idly but may defend himself. This defense should however be within proper limits. At the same time, people should not be deprived of the right to defend themselves on the pretext of countering terrorism. Islamic teachings prescribe the limits within which the right to defense may be exercised. The Quran and the Hadith have given instructions on this issue and the Islamic scholars and jurists have extensively written on it. In any case, transgression is not permitted in the guise of defense. (The issue of armed conflict between two sovereign states is not being discussed here; only the right of individual defense.)

WEAKER SECTIONS

A democratic order is expected to ensure the protection of minorities and weaker sections, to grant them equal rights, to save them from excesses and to adopt measures for guarding them against injustice. Before the dawn of Islam, the weaker sections' rights were violated in Arabia and also elsewhere in the world. These sections were exploited ruthlessly and were severely oppressed. Islam raised its voice for their protection and warned the violators of dire consequences; in this world and in the hereafter. Islam prescribed in its legal system and also practically ensured

in the Islamic state, the rights of women, orphans, the needy, the handicapped and the aged. Islam also exhorted people to be sympathetic to the weaker sections and to serve them sincerely.

RELIGIOUS FREEDOM

Religious freedom is a recognized basic human right. Islam, in clear terms, recognizes this right. The Quran points out that God could have coerced all human being into accepting Islam; however He chose not to do so. He granted freedom to them, in the matter of religion. This freedom should be respected. The freedom to adopt any religious faith is indeed the basis of the test to which human beings are subjected. The prophet was gently admonished by the Quran that these unbelievers should not be given undue attention. It is not the prophet's duty to persuade them anyhow to adopt the truth. The prophetic duty is simply to convey the message of God, in clear terms: It is God, who by His grace may guide a person to the right path. The Quran says:

“There is no compulsion in religion. Indeed guidance and ignorance have been clearly demarcated from one another.”

DISCUSSION ON RELIGION

An individual is given the clear choice between embracing the truth or adopting the falsehood. The choice is free; there is to be no coercion. The Quran permits discussion on religious questions with the followers of different faiths. However this discussion should take place in a civilized manner. The Quran instructs the believers thus:

"And you may argue (with the non-believers) but (only) in the best possible manner."

Religion may be a topic of interfaith discussions but the discussion must take place in a cordial and civilized atmosphere. The Islamic scholars have opined that in an Islamic state, no action may be taken against a non-Muslim, even if he openly declares that he does not believe the Quran to be revealed from God or that he does not recognize the prophet as God's messenger. However if he uses uncivilized language; action will be taken against him, according to the law. To use improper language about the prophet or about Moses and Christ or indeed about any other prophet is a cognizable offence in the Islamic state. The offence, in some circumstances, may invite capital punishment. Similarly the use of insulting language about the respected personalities of any religion would invite panel proceedings.

CONCLUSION

Islam, indeed, grants all those rights to individuals and communities which are their natural fundamental rights. Islam provides avenues of properly developing all the latent potentialities of human beings and meets all the requirement of human nature. Moreover Islam ensures well being in the life hereafter, as well as in this world. With Islamic teachings available, one does not need any other ideology, for human emancipation.